**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.4398 of 2007

Dated:05.03.2007

Between:

O. Ganga Raja Kumar.

…PETITIONER

and

The Government of Andhra Pradesh,
Revenue (Endowments) Department, Hyderabad, and others.

…RESPONDENTS

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.4398 of 2007

ORDER:

The petitioner is resident of Dwaraka Tirumala in West Godavari District. He filed instant writ petition challenging the order of fourth respondent, namely, the Assistant Commissioner of Endowments in proceedings A6/9429/96 dated 03.07.1996.

Dwaraka Tirumala is a pilgrimage center. Sri Venkateswara Swamy temple in said place attracts number of devotees every day. The petitioner is resident of said Village and also claims to be the Trustee of Arya Vysya Kalyana Mandapam Trust situated in said place. He alleges that pursuant to the notification issued for appointing trust board, he made an application. The process could not be completed as number of individuals raised different issues facilitating the continuance of sixth respondent in the management of the temple as founder trustee. Having come to know that sixth respondent was recognized as member of founder's family by fourth respondent, vide proceedings dated 03.07.1996, the petitioner approached fourth respondent and obtained a copy of the impugned proceedings in January, 2007 and preferred an appeal before third respondent, namely, the Deputy Commissioner of Endowments, Kakinada, being O.A.No.23 of 2007. Then the petitioner was informed that no appeal would lie against the order of fourth respondent. Therefore, he filed instant writ petition.

The learned counsel for the petitioner submits that in view of Section 87(1)(h) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (the Act, for brevity), it is only the Deputy Commissioner, who can decide any question as to whether a person is a founder or a member of the family of a founder of a temple and therefore, the order passed by fourth respondent is without power or authority and is a nullity. Secondly the learned counsel submits that taking advantage of the order passed by fourth respondent, respondents 6 and 7 are continuing in the management of the temple and preventing the constitution of nonhereditary trust board.

There is no denial that respondents 6 and 7 and two others were recognized as members of the founder's family. While doing so, fourth respondent referred to the earlier proceedings including the proceedings of second respondent recognizing respondents 6 and 7 and two others as hereditary trustees. This has become final. Secondly though fourth respondent passed orders on 03.07.1996, this writ petition is filed after lapse of about eleven years. For this reason alone, the writ petition cannot be entertained. Thirdly Section 87 (1)(h) of the Act was inserted by the Andhra Pradesh Amendment Act No.27 of 2002 with effect from 26.08.2002. Therefore, the proceedings issued by fourth respondent recognizing respondents 6 and 7 and two others as members of the founder's family cannot be faulted. Lastly the submission of the learned counsel that sixth respondent is preventing the official respondents from appointing board of nonhereditary trustees is no ground to invalidate the proceedings of fourth respondent after more than a decade. Pendency or otherwise of any writ petition filed by sixth respondent or anybody at his behest does not in any manner prevent first respondent to appoint board of nonhereditary trustee if there is no restraint by any Court on the exercise of powers by first respondent.

The writ petition is devoid of merits and the same is accordingly dismissed. No costs.

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**(V.V.S.RAO, J)**

05th March, 2007
ghn